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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/461,061 12/15/99 MCCRAE

K 6056-260

EXAMINER

HM22/0913

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ART UNIT

PAPER NUMBER

1653

13

DATE MAILED:

09/13/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/461,061**

Applicant(s)

**McCrae**

Examiner

**Hope Robinson**

Art Unit

**1653**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jul 13, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-45 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-8 and 12-45 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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***Restriction/Election***

1. Restriction to one of the following inventions is required under  
5 35 U.S.C. 121:

I. Claims 1-8 and 12-24 are drawn to a pharmaceutical composition,  
classified in class 514, subclass 12+.

10 II. Claims 25 and 27-45, are drawn to a method of inhibiting  
endothelial cell proliferation, classified in class 435, subclass  
70.1

III. Claim 26 is drawn to a method of inducing endothelial cell  
apoptosis, classified in class 435, subclass 7.21.

15 2. The inventions are distinct, each from the other because of the  
following reasons:

Inventions I-III are related as the composition of Invention I is used  
in the methods of Invention II and III. However, the inventions are  
patentably distinct because the methods of Invention II and III are  
20 alternative methods of using the composition as Invention I encompasses a  
method of using the composition with a different end point.

Inventions II and III are patentably distinct because the two methods  
have different endpoints which are opposed.

25 Because these inventions are distinct for the reasons given above and  
have acquired a separate status in the art as shown by their different  
classification, restriction for examination purposes as indicated is proper.

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hope A. Robinson whose telephone number is (703)308-6231. The Examiner can normally be reached on Monday and Wednesday - Friday from 9:00 A.M. to 5:30 P.M. (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor Christopher S.F. Low, can be reached at (703)308-2923.

Any inquiries of a general nature relating to this application should be directed to the Group Receptionist whose telephone number is (703)308-0196.

Papers related to this application may be submitted by facsimile transmission. The official fax phone number for Technology Center 1600 is (703) 308-4242. Please affix the Examiner's name on a cover sheet attached to your communication should you choose to fax your response. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

*Christopher S. F. Low*

Hope A. Robinson, MS *HR*

Patent Examiner

CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600